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March 13, 2003

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, S.W.
Washington, D.C. 20554

Re: Ex Parte Notice – MM Docket No. 02-277

Dear Ms. Dortch:

On March 12, 2003, Leslie Moonves, President and Chief Executive Officer of CBS Television, and Carol Melton and Anne Lucey of Viacom met with Commissioner Jonathan Adelstein and Sarah Whitesell to discuss the media ownership rules that are the subject of the Commission's above-captioned biennial review proceeding. Specifically, for reasons based upon arguments made in Viacom's comments and reply comments in this proceeding, Mr. Moonves discussed why structural ownership rules for broadcast television should be relaxed. Additionally, Mr. Moonves discussed network programming issues, as contained in a recent interview with *Television Week*. That interview is attached.

Pursuant to Section 1.1206(b) of the Commission's Rules and the Notice of Proposed Rule Making in MM Docket No. 02-277, an original and one copy of this letter are being submitted to the Secretary's office, two copies to Qualex International, and one electronic and one paper copy to each of Linda Senecal and Mania Baghdadi.

Sincerely,

A handwritten signature in black ink that reads "Anne Lucey".

cc: Commissioner Jonathan Adelstein
Sarah Whitesell

TV Currents

Maintaining the Status Quo

CBS President Leslie Moonves Takes His Fin-Syn Views to Washington

CBS President and CEO Leslie Moonves, the dean of the Hollywood TV community, is heading to the nation's capital this week to do what comes naturally, to bend some ears on the subject he knows best and believes passionately in: television.

Mr. Moonves is no stranger to Washington or political circles. He's long been a friend of and fund-raiser for former President Bill Clinton-and is now in effect signing the six-figure paycheck Mr. Clinton is pocketing for trading politically direct barbs with Bob Dole in a point-counterpoint segment on 60 Minutes.

As he meets with key Federal Communications Commission members and Capitol Hill lawmakers, instead of raising money, Mr. Moonves will be doing what he sees as his bit to raise consciousness on some regulatory issues that he, as the former head of Warner Bros. Television and the successful top programmer at CBS, has seen from both sides.

He talked last week with TelevisionWeek's Michele Greppi about why he disagrees with the so-called attempt to resurrect so-called fin-syn rules, which were declared dead in 1995 and which restricted networks' participation in the programming in their lineups, about how hard it can be to find a studio or a producer willing to make a pilot, a series or a TV movie, about why he believes that bigger shouldn't be presumed to be bad and why he thinks some studios and highly paid producers are talking out of both sides of their mouths.

TelevisionWeek: So why is Mr. Moonves going to Washington?

Leslie Moonves: It's making a case for a couple of things. There are issues that have popped up from the ridiculous to the sublime. There are certain points I think need to be made that haven't been totally made.

TVWeek: What's ridiculous and what's sublime?

LM: I'm using that as a flip way of saying that when I've read and I've seen the presentations being made about fin-syn, I think some of the arguments are ridiculous and I think they're coming from people who shouldn't be making those arguments.

TVWeek: Such as?

LM: Let's look at the whole fin-syn issue. When fin-syn raised its head again, I said, 'These people really can't be making these arguments again, because way back when, it was an argument about the wealthy vs. the very, very rich.' For certain people in studios to say that they're not getting an opportunity to get on the broadcast networks is patently absurd.

The bulk of our revenue still comes from advertising revenue. And all the networks would say the same thing. So we will buy programming, and we have bought programming from anybody and everybody. Our schedule is not about, 'Let's put on only shows that we own, that Viacom properties own.' That would be a way to hurt our network.

I'll give a case in point: Universal Television, which is one of the complainants, turned down a pilot for us. Turned down an ordered pilot. How can you turn down a pilot-that they developed for us, may I add-and then say at the same time, 'Gee, we're not getting a fair shake to get on the network.' I say, 'Well, which is it, guys?'

TVWeek: Which pilot was that?

LM: It was the Danny Glover pilot. It is now not at Universal. It's now with Spelling. So when people say, 'You're doing too many of the shows yourself,' we say, 'We have to get suppliers.'

I called [Universal Television Production Group President] David Kissinger on it. I said, 'David, you realize I'm going to go out and say on one hand they are complaining about fin-syn and on the other hand they're saying we don't want to do your pilot.'

We are, right now, as we speak, looking for suppliers for network television. We had something happen to us last year and this year which I had never seen before, which was suppliers turning down pilots, saying, 'I don't want to do them.'

TVWeek: Because there wasn't enough in it for them?

LM: Correct.

TVWeek: Is that because you want a stake in it? Can you summarize why you think they are reluctant to do it?

LM: Robbery Homicide Division [from Universal], I did not want a stake, nor did I ask for a stake. There are certain cases where they come to us for stakes in projects. And we will do it. By the way, our stake in these projects is partially creative. It's also partially because I can't get people to produce the shows. And I want to make sure these shows are done and done right.

They are reluctant to do it partially because the foreign market isn't as strong as it used to be, and the feeling that there is not a big upside for them. I can understand the validity of that, because the foreign market is tougher than it used to be. But don't then turn around and say, 'I am not being treated fairly by networks because they want to own the shows.' Don't speak out of both sides of your mouth. I'm not just talking about Universal.

Do you want a place on the network schedule? Don't say, 'I'm not getting a place because the networks want to own everything.' That just simply isn't true.

The 25 percent rule that people have proposed, these supposed independent producers, I want to know how that is going to work. Does that mean that I will do a normal license fee and they will pay a normal deficit for this? I've had nobody address what the financial implications are of that.

OK, so 25 percent of our schedule belongs to the supposed independents. Are they willing to step up to the plate for the amount of deficit that it would require to really produce these television shows? You know it's a big expense. It is a big expense to produce television shows and deficit appropriately.

So when these guys are talking about, 'We need to own 25 percent of the network schedule,' in this day and age, where the average drama deficit, under normal concerns, costs at least \$700,000 or \$800,000 in deficit, are they willing to step up for that?

Same thing in long-form. You hear a lot of complaining. We do more movies of the week than any network. We don't want to own any of these movies. Zero. OK, guys come on in, we'll do a normal license fee. You pick up the back-end. Where are all these suppliers that are complaining that we are owning?

Let me reiterate. We don't want to own any of the movies of the week we are doing. We would rather not own any of them. Once again, you get these groups that talk about, 'Gee, I don't get the opportunity to produce movies for the networks.' Bull!

TVWeek: Is it going to be easier to discuss fin-syn in this day and age than it was the last time?

LM: No. Fin-syn, way back when it was first shot down, clearly was a lightning rod. But without the repeal of fin-syn, there would be no WB. Disney would not have bought ABC. They couldn't have. There would be no UPN in existence. The world would look very different without the ability of studios to own networks.

TVWeek: At that time, the networks could argue demonstrably that they were losing money and that the fin-syn rules made it harder for them to make money.

LM: This past fiscal year you still had only two networks making a profit: NBC and CBS. I hear that The WB is coming close to a break-even situation. That may be possible. I'm not disputing that. So at the time these people are saying the networks are trying to hold all their properties for themselves, how come four of the six networks are losing money? Once again, another specious argument. All the networks are trying to do is get close to break-even.

When I took over CBS a few years back, CBS was losing a fortune too. And we didn't come back by owning programming. We came back because our programming was better. CBS didn't turn from a losing proposition to a moneymaking proposition because of ownership of our programming or forcing suppliers out. We became successful because our programming is better and by doing programming with everybody in town. Let me reiterate the statement I made in the beginning. We will buy from anybody.

TVWeek: What's the ballpark percentage of your programming that involves co-ownership or ownership by others?

LM: I don't have a ballpark, but a great deal of our schedule is at least partially owned by CBS or Viacom companies. There's no question about it. The difference is the word you used: co-ownership. We are in business, like we will own half of Judging Amy. Judging Amy is produced by Twentieth Century Fox. CSI is produced by Atlantis-Alliance. We own the other half. There was a company called Disney that was involved in that show. The Guardian is half-owned by Sony. Robbery Homicide Division: totally owned by Universal. Presidio Med: totally owned by Warner Bros. Two shows that made the schedule but didn't make it [for the long haul].

You will go out of business or you will be in trouble if you try to own 100 percent of all your shows. There just aren't the creative people to do it if you want to own 100 percent of it.

TVWeek: Networks were able to argue-and people could see-red ink when they fought for the end to the fin-syn rules. There isn't a comparable argument on behalf of lifting the caps on station ownership, because stations aren't losing money, at least in the markets that a network would be interested in buying, that networks can't argue economic distress as a case for lifting the cap on ownership.

LM: Once again, the people talking against us on station ownership-there are big companies that own stations. We're not putting the mom-and-pop guy out of business by our desire to increase

the ownership cap. We are arguing with big companies who are also doing extremely well.

We feel like the idea that programming is being hurt by there being a concentration of ownership is ridiculous. This really is the golden Age of television. I have never seen more diversity of programming than I see right now.

TVWeek: Are you talking about the types of programming or the well from which to draw?

LM: Both. Both. I think, a.) there is probably more great drama on television-not probably, definitely, than there has ever been before in the history of television, and b.)any new voice is able to be heard better than at any time in television.

Now there has been some shifting of where those voices are getting their money from, but they are not being silenced.

The David Kelleys of the world, the Steven Bochcos of the world, the John Wellses of the world, or the Jerry Bruckheimers of the world, their voices are still being heard. They are being heard by getting their money via the studio system, as opposed to being purely independent. I find it rather silly that people are saying voices are being shut down because studios are the ones who own them, studios and networks. That's not stifling creativity.

Some of the people, and I'm not going to mention names, that are objecting to the network ownership, are the same people who have multimillion-dollar deals with studios and networks.#

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